

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DONALD A. BOULDEN,

Petitioner,

v.

CIV 09-0770 BB/KBM

JAMES JANECKA, Warden,

Respondent.

**ORDER DENYING APPOINTMENT OF COUNSEL**

This habeas matter is awaiting receipt of the Record Proper before the Court further reviews the remaining claims, and Petitioner has filed a motion for appointment of counsel. *See Docs. 17, 18.* However, there is no constitutional right to counsel in habeas proceedings and the decision whether the appoint counsel is left the court's discretion. Ordinarily, there is no reason to appoint counsel unless the case has reached the stage of the proceedings where an evidentiary hearing is required. *See e.g., United States v. Leopard*, 170 F.3d 1013 (10<sup>th</sup> Cir. 1999) (§ 2255 case); *Swazo v. Wyoming Dept. of Corrections*, 23 F.3d 332 (10<sup>th</sup> Cir. 1994) (§ 2254 case); *see also Karls v. Hudson*, 182 F.3d 932 (10<sup>th</sup> Cir. )

(unpublished) (§ 2241 case), *cert. denied*, 528 U.S. 987 (1999). This case has not reached that stage and, accordingly, appointment of counsel is not warranted at this time.

Wherefore,

IT IS HEREBY ORDERED that the motion is DENIED.

  
UNITED STATES MAGISTRATE JUDGE